

EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ,)	
and LAMAR PATTERSON,)	
)	
Plaintiffs,)	
)	
vs.)	No. 3:17-cv-06748-WHO
)	
TESLA, INC., dba TESLA MOTORS,)	
INC., CITISTAFF SOLUTIONS, INC.;)	
WEST VALLEY STAFFING GROUP;)	
CHARTWELL STAFFING SERVICES,)	
INC.; and DOES 1-50, inclusive,)	
)	
Defendants.)	
)	

DEPOSITION OF TITUS McCALEB

San Jose, California

Tuesday, June 18, 2019

Reported by:

JANIS JENNINGS, CSR No. 3942, CLR, CCRR

Job No. 38360

TITUS MCCALED

June 18, 2019

1 A. No.

2 Q. This will be an easy question: Have you
3 ever spoken with Owen Diaz, as you understand -- as
4 far as you understand, have you ever spoken with
5 Owen Diaz?

6 A. No. I don't know who Owen Diaz is; so, no.

7 Q. All right. Have you spoken with a person
8 named Demetric Di-Az?

9 A. No.

10 Q. Have you heard of somebody named Demetric
11 Di-Az?

12 A. I have heard of Demetric Di-Az, but I don't
13 know if it's the same one you're speaking of.

14 Q. Have you heard about Demetric Di-Az from
15 anybody other than from your attorney?

16 A. No.

17 Q. Well, what do you know about this particular
18 lawsuit other than what your attorney has told you?

19 MS. AVLONI: Asked and answered.

20 THE WITNESS: Yeah, I definitely agree with
21 that, "Asked and answered." You asked me and I told you
22 what I knew.

23 BY MR. HORTON:

24 Q. Well, you can answer it again, please.

25 A. That it's a case about discrimination.

TITUS MCCALED

June 18, 2019

1 the B last name is.

2 Q. Burris?

3 A. Burris. Thank you.

4 Q. So you contacted those two people first?

5 A. Yes.

6 Q. Why did you contact Anton Baruh?

7 A. To inform him of the discrimination.

8 Q. What was it about Anton Baruh's position,
9 as you understood it, that you thought it would be
10 appropriate to email your timeline to him?

11 A. They were in-house human resources for West
12 Valley contractors to communicate with at the time, so I
13 thought that that was the appropriate channels.

14 Q. And the same for Lewis Burris?

15 A. I thought they were part of the same team and
16 that's what I was instructed.

17 Q. By whom?

18 A. Themselves.

19 Q. Did you have a supervisor while you worked for
20 West Valley Staffing Group when you were assigned at
21 Tesla?

22 A. No.

23 Q. What was your job at Tesla?

24 A. I was a production associate, and I also
25 worked as part of the quality and manufacturing and

TITUS MCCALED

June 18, 2019

1 training team. I worked as a media specialist and I
2 was a quality inspector.

3 Q. Who was your supervisor for those positions?

4 A. As the production associate, as mentioned,
5 Josh Vasquez, and Ron, with an L.

6 Q. We'll get the spelling for Ron.

7 A. Thanks.

8 Q. I know who you're talking about.

9 So what did Ron L. supervise you for?

10 A. Well, he took over for Josh. He was the
11 powertrain, PWT's floor supervisor.

12 Q. And Josh Vasquez had been the powertrain --

13 A. Yeah, for a while.

14 Q. -- supervisor?

15 A. Yes.

16 Q. Okay. Did you have any other supervisors at
17 Tesla besides those two gentlemen?

18 A. Oh, yeah.

19 Q. Who?

20 A. Maria, she was the supervisor for the
21 manufacturing and training department; Elon, because he
22 was part of the media specialist, he took the lead on
23 most of that stuff.

24 Q. Elon who?

25 A. As in Elon Musk.

TITUS MCCALED

June 18, 2019

1 stages or sections --

2 **A. Yes.**

3 Q. -- that you went through and then you were
4 told to go and wait and then you had to come back, that
5 sort of thing?

6 **A. I'm sorry. Could you restate the question.**

7 Q. You said in total it was about an hour that
8 you spent at this hall in Fremont during this first
9 meeting to apply for this job at West Valley Staffing
10 Group. Right?

11 **A. Correct.**

12 Q. All right. Now, you say "in total." Why is
13 it in total? Were you involved with other things while
14 you were there?

15 **A. So, as you said -- that's why I get it now --**
16 **yeah, there were stages.**

17 Q. Okay. So you would do one thing and then
18 be asked to wait and then you'd be called back in to do
19 something else and then you'd go out and wait in a room
20 somewhere, that sort of thing?

21 **A. Correct.**

22 Q. All right. What was the result of this first
23 meeting?

24 **A. The entire interview process?**

25 **Q. Just this first meeting. What were you told**

TITUS MCCALED

June 18, 2019

1 at the end of this meeting in Fremont?

2 A. "Congratulations, you excel above these
3 numbers. We would like to offer you a job as part of
4 our production associates whom will be working in the
5 powertrain part of Tesla's factory in Fremont."

6 Q. Were you told anything else about the job?

7 A. At the time I was not.

8 Q. So what you just told me is the total of what
9 you were told about this position at Tesla that you were
10 hired for?

11 MS. AVLONI: Vague and ambiguous.

12 THE WITNESS: At the time that's what I was
13 told.

14 BY MR. HORTON:

15 Q. All right. Do you recall being told anything
16 else about the job?

17 A. At the moment, unfortunately, I do not.

18 Q. All right. So what happened next in the
19 application process?

20 A. They emailed me information with a start date
21 for an orientation which would occur at the Fremont
22 warehouse.

23 Q. At Tesla's Fremont warehouse?

24 A. Correct.

25 Q. By the way, what was the date, approximately,

TITUS MCCALED

June 18, 2019

1 BY MR. HORTON:

2 Q. Please take a look at Exhibit 3 and tell us
3 when you're done reviewing it.

4 Exhibit 3 is an email string that begins
5 on Wednesday, October 19th, 2016, from Phillip Jaco,
6 J-a-c-o.

7 Are you done reviewing Exhibit 3?

8 A. Yes.

9 Q. Did you receive this from West Valley Staffing
10 Group when you were told that you were being hired by
11 West Valley to work at Tesla?

12 A. This was the onboarding, the initial
13 onboarding I received.

14 Q. Okay. And you remember receiving this on or
15 about October 19, 2016?

16 A. I want to say that that may be the correct
17 dates. I'd have to check my emails, but this looks like
18 the same email.

19 Q. And then you started work shortly thereafter?

20 A. Yeah. We started orientations.

21 MR. HORTON: I'm going to mark this next
22 exhibit, Exhibit 5.

23 MS. AVLONI: Counsel, I believe we're on
24 Exhibit 4.

25 MR. HORTON: Oh, Exhibit 4?

TITUS MCCALED

June 18, 2019

1 talking to at Tesla's HR department?

2 A. No.

3 Q. Okay. Do you remember speaking or
4 communicating with anyone from Tesla's Employee
5 Relations group?

6 MS. AVLONI: Calls for speculation.

7 If you know.

8 BY MS. JENG:

9 Q. Yeah, if you know.

10 A. I'm sorry, I don't even know what that
11 department is; so, no.

12 MS. JENG: Okay. I don't think I have any
13 more questions.

14 MS. KOSSAYIAN: Are we done now?

15 MS. AVLONI: Fenn, do you have anything else?

16

17 FURTHER EXAMINATION

18 BY MR. HORTON:

19 Q. Just a couple of things I want to clarify.

20 When you referred to "Ron," are you referring
21 to Ron Lardizabal?

22 A. Oh, there you go. I think you almost
23 pronounced his name right. That would be the Ron that
24 we're seeing in here (indicating).

25 Q. And is that who you were referring to earlier

TITUS MCCALED

June 18, 2019

1 **THE WITNESS: She's the associate manager.**

2 BY MR. HORTON:

3 Q. So when you referred to "Afton" you were
4 referring to Afton Versteegh, V-e-r-s-t-e-e-g-h; is that
5 correct?

6 **A. Correct.**

7 Q. And just a couple more follow-ups on the --
8 just towards your discrimination just to get some
9 identifications.

10 If you'll look at Exhibit 5, and specifically
11 page WV000397. And I'd like you to look at the
12 Particulars section. In the second paragraph where it
13 starts:

14 "I am African American. On or about
15 November 7 or 8, 2016, a non-management
16 co-worker (non-African American) at TESLA
17 called me a 'nigger'/'nigga' while in the
18 presence of several Leads."

19 Who were you referring to?

20 **A. That was Carlos at that time.**

21 Q. That was who?

22 **A. Carlos.**

23 Q. Carlos.

24 MS. AVLONI: Fenn, I'm just going to object
25 to the extent that my understanding was you had finished

TITUS MCCALED

June 18, 2019

1 your questioning, counsel had some follow-up questions,
2 and it sounds like you're reopening your line of
3 questions again with completely new questions, so --

4 MR. HORTON: Well, we're not at seven hours
5 yet.

6 MS. AVLONI: We're not at seven hours. It's
7 just you're not really following the procedures set out
8 under the Federal Rules of Civil Procedure. I'll go
9 ahead and let you --

10 MR. HORTON: This is a deposition.

11 MS. AVLONI: Yeah, I understand that. I'll
12 go ahead and let you continue. I just hope that you're
13 going to not go into a ton of new things that you
14 haven't already --

15 MR. HORTON: I'm just trying to identify some
16 people. That's all.

17 MS. AVLONI: Okay.

18 BY MR. HORTON:

19 Q. And then midway through the middle of that
20 same paragraph it starts:

21 "Finally, on or around June 2, 2017, yet
22 another non-management co-worker referred
23 to me as 'nigga.'"

24 Who are you referring to in that sentence?

25 A. I'm not sure if this one is Giddeon or if this

TITUS MCCALED

June 18, 2019

1 one is Marcel. I'm taking it that the 15th would have
2 been Marcel because he came to the line before Giddeon,
3 so... That would only make sense based on...

4 Q. Okay. So in the sentence before that it
5 starts:

6 "On or around March 15, 2017, another
7 non-management co-worker called me this
8 word again."

9 Who is that person you're referring to? Is
10 that Giddeon?

11 MS. AVLONI: Asked and answered.

12 MR. HORTON: I asked it but he didn't answer.

13 BY MR. HORTON:

14 Q. Is that Giddeon you were referring to in that
15 sentence?

16 A. No. I just said it right before when you
17 asked me that question. You asked about June 2nd, and I
18 told you about March 15th, that that would have possibly
19 been Marcel because he was employed before Giddeon,
20 which would mean that Giddeon would have been June 2nd.

21 Q. All right. And then further down you say,
22 "Another manager, Afton Zersteegh," that should be
23 "Versteegh," though, shouldn't it? V-e-r-s-t-e-e-g-h,
24 not "Zersteegh"?

25 A. Correct.

TITUS MCCALED

June 18, 2019

1 I, JANIS JENNINGS, CSR No. 3942, Certified
2 Shorthand Reporter, certify:

3 That the foregoing proceedings were taken
4 before me at the time and place therein set forth, at
5 which time the witness was duly sworn by me;

6 That the testimony of the witness, the
7 questions propounded, and all objections and statements
8 made at the time of the examination were recorded
9 stenographically by me and were thereafter transcribed;

10 That the foregoing pages contain a full, true
11 and accurate record of all proceedings and testimony.

12 Pursuant to F.R.C.P. 30(e)(2) before
13 completion of the proceedings, review of the transcript
14 [] was [X] was not requested.

15 I further certify that I am not a relative or
16 employee of any attorney of the parties, nor financially
17 interested in the action.

18 I declare under penalty of perjury under the
19 laws of California that the foregoing is true and
20 correct.

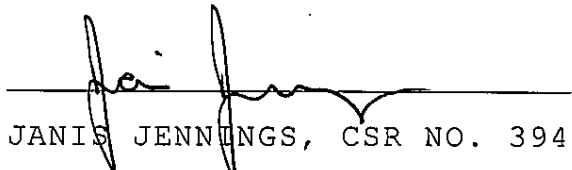
21 Dated this 28th day of June 2019.

22

23

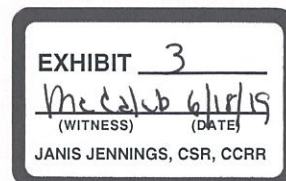
24

25


JANIS JENNINGS, CSR NO. 3942
CLR, CCRR

On Wed, Oct 19, 2016 at 3:38 PM, Phillip Jaco <pjaco@westvalley.com> wrote:

Hello Titus,



My name is Phillip and I wanted to say Congratulations on your new position at Tesla Motors through West Valley Staffing Group (WVSG), we are excited to be working with you! Please read this email thoroughly and complete all the information.

To start the application process; please follow the steps listed below. For your convenience you can complete all these steps at home. If you have any questions during this process, please contact me directly so I may assist you through the process.

Step 1: View and Complete the Safety Training Video and Test at www.westvalley.com/test

Step 2: You will receive an email from systems@efficientforms.com with instructions on how to complete your online employment application. (Please check your spam folder, as most emails end up there) If you have not received an email from us, please contact me and I will resend it. During this process you will complete your online employment application and upload your 2 forms of valid identification for employment purposes.

- You must provide WVSG with acceptable documents as part of the I-9 process, or upload them into the Efficient Forms Systems. The complete list will be provided when you fill out the Form I-9.

1. You can take a picture of your ID's with your phone and email them to WVSG if you are having issues uploading them. Just make sure the picture is clear, and/or bring the original documents to the WVSG Office.

Step 3: The online employment application will include the following:

- Creating a pin for online signatures
- W-4 completion
- I-9 Verification, including providing WVSG with approved required documents
- Setting up Direct Deposit
- You must E-Sign your Application AND I9 Document to Finish the Process

➤ You will enter in your pin TWICE to complete the online Application Process.

Step 4: Post-Offer Physical Exam

Print the Treatment Authorization form and take it with you to your appointment

The Newark facility has the most bandwidth to take walk-ins; we recommend that you go to Newark facility for your post offer Physical

**If you are not able to schedule a physical before your start date, please schedule an appointment off work hours at your earliest convenience.*

***** You will know when you are done with the online application because you will have *two line items*; one that says "Employee Onboarding" and the other "I9" and both should have a "Pending Manager Approval" in the Status Column.**

Phillip Jaco | Recruiter Administrative Assistant

West Valley Staffing Group

P: 408.735.1420 x3029 | F: 408.730.5659

E: pjaco@westvalley.com | W: www.westvalley.com

"#1 Staffing Agency in Silicon Valley" as rated by the Business Journal

"#1 Best Place to Work" as rated by the San Francisco Business Times

EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ and
LAMAR PATTERSON, an individual,

Plaintiffs,

CONFIDENTIAL

vs.

No. 3:17-cv-06748-WHO
VOL II, pgs 187 - 292

TESLA, INC. DBA TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC. and DOES 1-10,
inclusive,

Defendants.

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

OWEN DIAZ

SAN FRANCISCO, CALIFORNIA

MONDAY, DECEMBER 3, 2018

Reported by:

GINA V. CARBONE, CSR #8249
RPR, RMR, CRR, CCRR
FILE NO.: 18-27207



10:33:05 1 Q. Is there any reason that you feel you can't
10:33:06 2 proceed with your deposition today?

10:33:08 3 A. No.

10:33:09 4 Q. If at any point you feel like you can no
10:33:11 5 longer answer my questions truthfully and
10:33:13 6 accurately, will you let me know?

10:33:15 7 A. Yes.

10:33:18 8 Q. Have you taken any medicine that might
10:33:20 9 affect your ability to testify truthfully today?

10:33:23 10 A. No.

10:33:28 11 Q. Do you know Teshawna Stewart?

10:33:34 12 A. I don't know. I have to -- I'm pretty bad
10:33:38 13 with names, but maybe if you had a photo, I might
10:33:44 14 know the person.

10:33:45 15 Q. Does the name sound familiar to you at all?

10:33:54 16 A. Again, like I said, in order for me to
10:33:57 17 know....

10:34:01 18 Q. Sorry, are you finished?

10:34:03 19 A. Oh, I would have to see a photo.

10:34:05 20 Q. Okay. The name, you don't recognize the
10:34:08 21 name?

10:34:14 22 A. No.

10:34:15 23 Q. How about Nigel Jones, do you know him?

10:34:18 24 A. Again, I would have to see a photo.

10:34:20 25 Q. Do you recognize his name?

10:34:27 1 A. Not everybody goes by their birth given
10:34:29 2 name, so they might go by a variation of their name,
10:34:35 3 so again, like I said, until I could see a photo, I
10:34:38 4 wouldn't know if I would know that person.
10:34:41 5 Q. Do you recognize his name at all, then?
10:34:44 6 A. No.
10:34:49 7 Q. Do you believe Teshawna Stewart has any
10:34:50 8 information about your claims against Tesla or
10:34:54 9 CitiStaff?
10:34:55 10 MR. ORGAN: Objection. Calls for a legal
10:34:57 11 conclusion.
10:34:58 12 You can answer.
10:35:03 13 THE WITNESS: I don't know.
10:35:05 14 BY MS. ANTONUCCI:
10:35:06 15 Q. Did Teshawna Stewart witness any of the
10:35:08 16 conduct that you found to be offensive or harassing
10:35:11 17 while you were working at the Tesla factory?
10:35:16 18 MR. ORGAN: Objection. Calls for
10:35:16 19 speculation.
10:35:17 20 THE WITNESS: I don't know.
10:35:20 21 BY MS. ANTONUCCI:
10:35:20 22 Q. Do you have any reason to believe that
10:35:23 23 Teshawna Stewart would have witnessed any conduct
10:35:25 24 you found to be offensive at the Tesla factory?
10:35:30 25 MR. ORGAN: Objection. Calls for

1 I, GINA V. CARBONE, CSR No. 8249, RPR, RMR, CRR,
2 CCRR, certify: that the foregoing proceedings were taken
3 before me at the time and place herein set forth; at
4 which time the witness was duly sworn; and that the
5 transcript is a true record of the testimony so given.
6

7 Witness review, correction and signature was
8 (X) by code. (X) requested.
9 () waived. () not requested.
10 () not handled by the deposition officer due to party
11 stipulation.
12

13 The dismantling or unbinding of the original
14 transcript will render the reporter's certificate null
15 and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties, nor of any of
19 the parties.

20 Dated this 7th day of December , 2018 .
21

22 
23 GINA V. CARBONE
24 CSR #8249, STATE OF CALIFORNIA
25

EXHIBIT 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

vs.

Case No. 3:17-cv-06748-WHO

TESLA, INC. dba TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC.; NEXTSOURCE,
INC.; and DOES 1-50,
inclusive,

Defendants.

_____ /

THE VIDEOTAPED DEPOSITION OF
THE PERSON MOST KNOWLEDGEABLE OF
WEST VALLEY STAFFING GROUP
TERESA KOSSAYIAN

Wednesday, April 24, 2019

Reported by: Patricia Rosinski, CSR #4555

Job No. 13559

TERESA KOSSAYIAN

April 24, 2019

1 **A. Correct.**

2 Q. Okay. Now, have you personally conducted
3 any investigations relative to Mr. Di-az's complaint
4 of race harassment?

5 **A. I have not.**

6 Q. Are you aware of West Valley doing any
7 investigation into Mr. Di-az's complaint of race
8 harassment?

9 MR. HORTON: Objection. Vague as to time.
10 Are you talking about before the lawsuit
11 was filed or after?

12 MR. ORGAN: Yes -- let me break it down.
13 That's a good point.

14 **Q. Before Mr. Di-az filed this lawsuit, were**
15 **you aware of any complaints of discrimination or**
16 **harassment relative to Demetric Di-az?**

17 **A. No.**

18 Q. Once -- so you didn't do any
19 investigations, obviously, because you weren't
20 aware.

21 Is that correct?

22 **A. That is correct.**

23 Q. And then after Mr. Di-az filed his
24 complaint of race harassment --

25 MR. HORTON: No.

TERESA KOSSAYIAN

April 24, 2019

1 CERTIFICATE OF REPORTER

2 STATE OF)
CALIFORNIA) ss.
3)
COUNTY OF MARIN
4

5
6 I, PATRICIA ROSINSKI, a Certified Shorthand
Reporter, holding a valid and current license issued by
the State of California, CSR No. 4555, duly authorized to
7 administer oaths, do hereby certify:

8 That TERESA KOSSAYIAN, the witness in the
foregoing deposition was administered an oath to
9 testify to the whole truth in the said within-entitled
cause;

10
11 That said deposition was taken down by me in
shorthand at the time and place therein stated and
thereafter transcribed into typewriting, by computer,
12 under my direction and supervision.

13 (xx) Reading and signing was requested.

14 () Reading and signing was waived.

15 () Reading and signing was not requested.

16 Should the signature of the witness not be
affixed to the deposition, the witness shall not have
17 availed himself/herself of the opportunity to sign or
the signature has been waived.

18
19 I further certify that I am not interested in
the outcome of said action, nor connected with, nor
related to any of the parties in said action, nor to
20 their respective counsel.

21
22 IN WITNESS WHEREOF, I have hereunto set my hand
this.

23
24 30th day of April, 2019.

25 _____

Page 180

Bridget Mattos & Associates
(415) 747-8710

EXHIBIT 4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

No. 3:17-cv-06748-WHO

vs.

TESLA, INC. Dba TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC.; NEXTSOURCE,
INC.; and DOES 1-50,
inclusive,

Defendants.

_____ /

DEPOSITION OF ANNALISA HEISEN

May 29, 2019

Reported by:

Bridget M. Mattos, CSR No. 11410

ANNALISA HEISEN

May 29, 2019

1 there was a man named Nordano Ramirez who said he had
2 witnessed Mr. Foster engaging in threatening conduct
3 towards Mr. Diaz; correct?

4 **A. Correct.**

5 Q. Other than these four issues, the July 2015,
6 the October 2015, the November 2015, and then the
7 January 2016 incidents, are you aware of any other
8 complaints or investigations relating to Owen Diaz?

9 **A. I'm not.**

10 **Q. Are you aware of any complaints or**
11 **investigations regarding Demetric Diaz?**

12 **A. Not during his time on contract with Tesla.**

13 Q. Are you aware of any complaints regarding
14 Demetric Diaz from some other time?

15 **A. No, just as relates to this case.**

16 Q. Oh, in terms of Mr. Demetric Diaz filing this
17 case, is that what you're saying?

18 **A. Correct.**

19 Q. Have we now covered the results of any
20 investigations that you're aware of relating to any of
21 the plaintiff's claims of race harassment?

22 **A. That's my understanding.**

23 Q. In terms of Tesla's policies and procedures
24 for Tesla contractors to ensure that your contractors
25 enforce Tesla's antiharassment policies, is there

ANNALISA HEISEN

May 29, 2019

1 State of California)

2 County of Marin)

3

4 I, Bridget M. Mattos, hereby certify
5 that the witness in the foregoing deposition was by me
6 duly sworn to testify to the truth, the whole truth
7 and nothing but the truth in the within entitled
8 cause; that said deposition was taken at the time and
9 place herein named; that the deposition is a true
10 record of the witness's testimony as reported to the
11 best of my ability by me, a duly certified shorthand
12 reporter and disinterested person, and was thereafter
13 transcribed under my direction into typewriting by
14 computer; that the witness was given an opportunity to
15 read, correct and sign the deposition.

16 I further certify that I am not
17 interested in the outcome of said action nor connected
18 with or related to any of the parties in said action
19 nor to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunder
21 subscribed my hand on May 29, 2019.

22

23 BRIDGET M. MATTOS, CSR NO. 11410

24

25

Page 172

Bridget Mattos & Associates
(415) 747-8710

EXHIBIT 5

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DEMETRIC DI-AZ, OWEN DIAZ,
and LAMAR PATTERSON,
Plaintiffs,

vs.

CASE NO.
3:17-CV-06748-WHO

TESLA, INC., dba TESLA
MOTORS, INC.; CITISTAFF
SOLUTIONS, INC.; WEST VALLEY
STAFFING GROUP; CHARTWELL
STAFFING SERVICES, INC.; and
DOES 1-50, inclusive,

Defendants.

_____/

DEPOSITION OF AMY OPPENHEIMER, AWI-CH

DATE: March 9, 2020

TIME: 10:06 a.m.

LOCATION: San Francisco, California

REPORTED BY: BENJAMIN GERALD, CSR
California CSR No. 14203
Washington CSR No. 3468

JOB NO.: 177233

1 respect to Owen Diaz that you are identifying through
2 your opinions in Subsection C is the end of his
3 employment?

4 MR. ORGAN: Objection. Misstates her
5 testimony. She just testified about that.

6 THE WITNESS: I believe I said that there was
7 further racial harassment or evidence of that in the
8 workplace.

9 BY MS. HAINES:

10 Q. Okay. And you discussed all of that, correct?

11 A. You mean the basis of that being the graffiti
12 that there's a picture of and the dashboard?

13 Q. Okay. Can you identify for me where in your
14 report in Section C where you refer to graffiti?

15 A. I don't in Section C.

16 Q. Well, that's what we're discussing is your
17 opinions there.

18 A. But you just asked me a question that's broader
19 than that, and if I don't answer, I'm not being thorough
20 in my answer.

21 Q. And again, without reviewing your documents,
22 your notes, and the deposition summaries, you would not
23 be able to identify any basis for the adverse
24 consequences that may have been suffered by
25 Demetric Di-Azi; is that correct?

1 A. Well, what I would say is that there is
2 evidence, that would impact any of them, of continual
3 and continued racial harassment in the workplace --

4 Q. Okay.

5 A. -- and that was vis-?-vis graffiti, the
6 dashboard epithet, and testimony from other individuals
7 as to how often they heard the N-word and other racial
8 epithets, and then a complaint from, I believe it was
9 December of '15, from another individual, Henry, about
10 threats and the N-word.

11 Q. Can you -- what -- what exhibits are you
12 referring to for this, the graffiti and the dashboard,
13 and the complaints from an individual named Henry?

14 A. Well, if you want the exhibit numbers, I'd have
15 to look for them.

16 MR. ORGAN: Objection. Compound.

17 THE WITNESS: Well, I think that the racist
18 graffiti is Exhibit 193. The dashboard racist statement
19 might be Exhibit 188, but I want to check to verify.
20 And the Henry complaint I believe is Exhibit 189.

21 BY MS. HAINES:

22 Q. And those are not exhibits listed in your
23 October 11th report.

24 A. Those might be in the amended report.

25 Q. Okay. So that wasn't part of your opinion for

1 the section. But when you ask me a broader question
2 about what would apply here --

3 Q. Well, I haven't asked you that question.

4 A. Okay. But my mistake not to parse out -- the
5 questions, when I've answered them, I haven't tried to
6 remember what I knew at the different time periods; I'm
7 looking at what I know in the case generally. It's just
8 not a way that my mind works that easily.

9 Q. You indicated you were relying on Exhibit 193
10 in connection with the graffiti.

11 A. Well, again, when you say rely on, I would say
12 this is the evidence that I've seen as to the basis of
13 that -- this opinion. So sure.

14 And I believe that was correct, although I
15 didn't -- I had a note about it. I didn't look --

16 Q. Okay.

17 A. -- to confirm it.

18 Q. And if Exhibit 193 regarding graffiti occurred
19 after any plaintiff worked at Tesla, would that affect
20 your opinion?

21 A. Well, it doesn't have a direct impact on them,
22 but it's an indication that there is ongoing racial
23 harassment in that workplace despite these many other
24 complaints of racial harassment, that it has not been
25 successfully responded to.

1 And no, I can't put a precise date to -- they
2 did see this piece of graffiti, or this happened during
3 the moments that they were on shift. What I can look at
4 is environmentally, there's evidence of continued racial
5 harassment.

6 Q. And by that, you mean that you're just looking
7 at Tesla -- just this information over any period of
8 time if it occurred at Tesla?

9 A. Well, not any period of time. This was fairly
10 close in time to these events.

11 Q. And would --

12 A. And the complaint from this other individual
13 was during the period of time.

14 Q. Okay. Is that the co-worker of any of the
15 plaintiffs?

16 A. I don't recall whether -- or if I know if
17 they're on the same shift. I guess I'm not even sure
18 what you mean by "co-worker."

19 Q. Is that someone who worked with any of the
20 plaintiffs in this case?

21 A. I don't know.

22 Q. Do you know if any of the plaintiffs in this
23 case knew the individual in Exhibit 189?

24 A. I don't know. Some of -- some of the
25 management individuals are the same.

1 Q. And there's no information about any of the
2 plaintiffs in Exhibit 189, correct?

3 A. That's true.

4 Q. And then you identified Exhibit 188 as the
5 dashboard?

6 A. Correct.

7 Q. Okay. And again, that's after the time frame
8 that any of the plaintiffs were at Tesla?

9 A. That's correct.

10 Q. Okay. And do you --

11 MR. ORGAN: Objection. Misstates the evidence.

12 THE WITNESS: Okay. The truth is, I'm focusing
13 on Owen Diaz. I know it's after Owen Diaz was there,
14 and it's possible that the other plaintiffs were there a
15 little bit longer. I'd have to check their dates.

16 BY MS. HAINES:

17 Q. But that --

18 A. I assumed when you said that that you were
19 aware of the dates, but I shouldn't assume that.

20 Q. Exhibit 188 was after Owen Diaz left and --

21 A. That's true.

22 Q. -- also after Demetric Di-Az left?

23 A. I believe it was a month after he left.

24 Q. And it was also after Demetric Di-Az was no
25 longer at Tesla?

1 A. You know, I should probably check because I
2 agreed to something else you said without my independent
3 notes, and I probably shouldn't do that.

4 Q. Okay. Do you have notes somewhere about this
5 time that he worked?

6 A. Sure. I do.

7 Q. Okay.

8 A. Would you like me to check?

9 Q. Yeah.

10 A. I'm generally happy to -- my guess is that
11 you're much more familiar with these facts than I am.

12 You know, the dates are not popping out at me,
13 so I'm just going to say I don't know.

14 MS. HAINES: Mark an exhibit, please.

15 (Exhibit 25 was marked for identification.)

16 THE REPORTER: Exhibit 25.

17 BY MS. HAINES:

18 Q. This is Exhibit 3 that was identified in
19 your -- Section 2 of your report, "materials reviewed."

20 A. Okay.

21 Q. Does this refresh your recollection as to the
22 dates of Demetric Di-Az's work at Tesla?

23 A. Okay. Yes. Thank you.

24 Q. Okay. And so you would agree that the

25 Exhibit 188 about the dashboard took place well after

1 Demetric Di-Az was working at Tesla?

2 A. Yes.

3 Q. Okay. And do you have any information about
4 where at the Tesla facility the dashboard incident took
5 place in connection with Owen Diaz's workplace?

6 A. No.

7 Q. The same thing would be true for
8 Demetric Di-Az?

9 A. Correct.

10 Q. Let's turn to Section D of your amended report.
11 And you didn't make any changes between your
12 October 11th report and your amended report to this
13 section, correct?

14 A. Correct.

15 Q. Does that mean your opinion did not change?

16 A. Yes.

17 Q. Okay. Okay.

18 And your opinion in Subsection D is only
19 related to Demetric Di-Az and Lamar Patterson?

20 A. Correct.

21 Q. Okay. Are you aware of the status of plaintiff
22 Lamar Patterson?

23 A. You know, I had a memory of being told that one
24 or the other or both of them was no longer in the case,
25 but I don't -- and that the -- the primary focus that I

1 that come to mind in addition to the plaintiffs.

2 Q. And so that statement encompass the purported
3 use of the N-word among employees other than Owen Diaz
4 and Demetric Di-Az?

5 A. Yes.

6 Q. And you're just relying on the deposition
7 testimony for that information?

8 MR. ORGAN: Vague and ambiguous.

9 THE WITNESS: Primarily the deposition
10 testimony. Also, there was the graffiti, which was a
11 little -- just shortly after Owen left but was certainly
12 within that time frame of '15 to '17, as was the
13 dashboard -- not dashboard. The front of that vehicle.

14 BY MS. HAINES:

15 Q. And when you say the term was used without
16 retribution, what was that based on?

17 A. The testimony that, unless there was a specific
18 complaint, there was no indication anybody had looked
19 into it or even saw it as problematic by a number of
20 people who testified. I think maybe it was Jackson who
21 said that there was friendly use of the N-word. And I
22 believe Wheeler also said it wasn't seen as an issue.
23 Maybe it was Wheeler who said he thought it was
24 friendly. I think they said somewhat similar things.

25 Again, I guess, you know, when you talk about

1 being used without retribution, even though there's
2 supposedly a zero-tolerance policy, and witnesses
3 indicate it's a serious offense, potentially a
4 terminable offense.

5 I believe Quintero said that when it came to
6 racist statements or threats -- maybe this was a
7 reference to the racist effigy -- that it's important
8 for Owen Diaz to be thick-skinned and accept an apology.
9 Well, that's a way of communicating that these are not
10 very important actions, these racist epithets and
11 perceived threats, and they should be forgiven and move
12 on.

13 Q. Anything else?

14 A. Well, in the earlier complaint there was no
15 rigorous attempt to determine whether Timbreza had made
16 racist comments, and instead he was, you know, simply
17 warned about joking.

18 Again, if the -- there was a serious
19 zero-tolerance policy for using racial epithets and
20 making racial comments and threats, then I would expect
21 to see a rigorous investigation and findings, and expect
22 to see action taken.

23 Q. The emails, the contemporaneous emails
24 concerning the complaint about Timbreza, did not specify
25 what language was used, correct?

1 CERTIFICATE

2 I, BENJAMIN GERALD, Certified Shorthand Reporter,
3 Certificate No. 14203, for the State of California do
4 hereby certify:

5 That prior to being examined, the witness named in
6 the foregoing deposition was by me duly sworn to testify
7 to the truth, the whole truth, and nothing but the truth
8 in the within-entitled cause;

9 That said deposition was taken shorthand at the
10 time and place herein named;

11 That the deposition is a true record of the
12 witness's testimony as reported to the best of my
13 ability by me, and was thereafter transcribed to
14 typewriting by computer under my direction;

15 That request [] was [X] was not made to read and
16 correct said deposition.

17 I further certify that I am not interested in
18 the outcome of said action, nor am I connected with, nor
19 related to any of the parties in said action, nor to
20 their respective counsel.

21 Witness my hand this 12 day of March, 2020

22 

23 _____
24 BENJAMIN GERALD, CSR No. 14203

25 STATE OF CALIFORNIA

EXHIBIT 6

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DIAZ, et al.,)	
)	
Plaintiffs,)	
)	Case No.
v.)	3:17-cv-06748-WHO
)	
TESLA, INC., et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF ANDRES DONET

DATE: Thursday, October 24, 2019

TIME: 4:39 p.m.

LOCATION: Sheppard, Mullin, Richter &
Hampton LLP
379 Lytton Avenue
Palo Alto, California 94301

REPORTED BY: Peter Torreano, CSR, CRR
Certified Shorthand Reporter
License Number C-7623

VIDEOTAPED DEPOSITION OF ANDRES DONET

17:19:35 1 see here that he was copied here. He's copied here.

17:19:39 2 He and Andre Llaljie is copied.

17:19:43 3 Q. Sure. So your practice included sending any
17:19:46 4 notices relative to cleaning up graffiti or complaints
17:19:51 5 about graffiti to your boss, Victor Quintero, when he
17:19:56 6 was your boss; is that correct?

17:19:57 7 A. Yeah, yeah. He was in the building services
17:20:00 8 area. So he didn't receive the information firsthand,
17:20:06 9 same as me, but, you know, we are -- we were more in
17:20:10 10 the operations side. So we were -- that person -- the
17:20:14 11 people who deals with the issue on cleaning properly.

17:20:20 12 Q. I also notice there's a person here named
17:20:24 13 James Moffitt. Do you see that name?

17:20:25 14 A. James Moffitt, yeah.

17:20:26 15 Q. Who was he?

17:20:27 16 A. He was the janitorial employee, janitorial
17:20:32 17 lead at that time.

17:20:32 18 Q. Okay. Did you -- did you ever watch any of
17:20:37 19 the efforts to clean up the graffiti?

17:20:41 20 A. I don't remember where, but, yeah, I believe
17:20:52 21 so. I don't remember where, but yeah. Yeah, for sure.
17:20:57 22 Sometime for sure I -- I maybe saw it. It's the kind
17:21:05 23 of thing you see. You apply a chemical and rub it and
17:21:10 24 everything is gone.

17:21:11 25 Q. I'm going to show you what's been premarked as

VIDEOTAPED DEPOSITION OF ANDRES DONET

17:21:13 1 Exhibit 194. Do you recognize --

17:21:16 2 MR. HASAN: I'm going to object to the
17:21:18 3 questions about this exhibit. It hasn't been produced
17:21:23 4 and discovery is closed.

17:21:24 5 MR. ORGAN: It actually has, Counsel. It's
17:21:27 6 been produced.

17:21:27 7 MR. HASAN: It has been produced?

17:21:29 8 MR. ORGAN: Yeah.

17:21:30 9 MR. HASAN: Where? When?

17:21:31 10 MR. ORGAN: It's been produced in another
17:21:32 11 case.

17:21:32 12 MR. HASAN: It hasn't been produced in this
17:21:35 13 case.

17:21:35 14 MR. ORGAN: It doesn't have to be.

17:21:37 15 BY MR. ORGAN:

17:21:37 16 Q. Question: This is reportedly something that
17:21:40 17 was put up. It was a poster that was put up in the
17:21:43 18 bathrooms and you can see faintly in the red ink the
17:21:49 19 word "nigger." I'm wondering did you ever receive a
17:21:53 20 report about such a poster in the bathrooms?

17:21:57 21 MR. HASAN: Objection. Calls for speculation.
17:22:00 22 Misstates testimony. Compound. Outside the scope of
17:22:05 23 this ordered testimony.

17:22:10 24 THE DEPONENT: When did this happen?

17:22:11 25 MR. ORGAN: I don't have the exact date, but

VIDEOTAPED DEPOSITION OF ANDRES DONET

17:22:12 1 my understanding is it happened during this time

17:22:15 2 period.

17:22:16 3 THE DEPONENT: It was in that time period?

17:22:17 4 MR. HASAN: Objection.

17:22:18 5 MR. ORGAN: Yeah.

17:22:19 6 THE DEPONENT: It might not. This is kind
17:22:22 7 of -- using this letter it's a different kind before.
17:22:29 8 So I don't know. But I haven't seen this.

17:22:31 9 BY MR. ORGAN:

17:22:31 10 Q. You haven't seen this before?

17:22:32 11 A. No, no.

17:22:33 12 Q. This wasn't reported to you from before --

17:22:36 13 A. Yes. As far as I could remember, no, it
17:22:39 14 hasn't. I've never seen it.

17:22:41 15 Q. It had something -- this might help you in
17:22:43 16 terms of the timing. I think there is something about
17:22:48 17 union organizing on the poster. I don't know what time
17:22:52 18 period that was. Do you know?

17:22:54 19 MR. HASAN: Objection. Calls for speculation.
17:22:56 20 Outside the scope of ordered testimony. Compound.

17:23:00 21 THE DEPONENT: I don't know. Maybe 2016,
17:23:07 22 2017.

17:23:07 23 MR. HASAN: Don't guess.

17:23:11 24 BY MR. ORGAN:

17:23:11 25 Q. I'm entitled to your best estimate, though.

REPORTER'S CERTIFICATE

I, Peter Torreano, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, do hereby certify:

That the witness in the foregoing deposition was administered an oath to testify to the whole truth in the within-entitled cause; that said deposition was taken at the time and place therein cited; that the testimony of the said witness was reported by me and was thereafter transcribed under my direction into typewriting; that the foregoing is a full and accurate record of said testimony; and that the witness was given an opportunity to read and correct said deposition and to subscribe the same.

Pursuant to Federal Rule 30(e), transcript review was requested.

I further certify that I am not of counsel nor attorney for any of the parties in the foregoing deposition and caption named nor in any way interested in the outcome of the cause named in said caption.

Dated: November 2, 2019

PETER TORREANO, CSR NO. 7623

EXHIBIT 7

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ and
LAMAR PATTERSON, an individual,

Plaintiffs,

Vs.

Case No. 3:17-cv-06748-WHO

TESLA, INC. DBA TESLA MOTORS,
INC.; CitiStaff SOLUTIONS, INC.;
WEST VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.
and DOES 1-10, inclusive,

Defendants.

CONFIDENTIAL

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

OWEN DIAZ

SAN FRANCISCO, CALIFORNIA

TUESDAY, MAY 22, 2018

Reported By:
Candy Newland
CSR No. 14256
File No. 18-25470



04:54:35	1	Q.	Did Wayne ever speak with you about good
04:54:42	2		customer service and any negative incident leading to
04:54:48	3		your termination?
04:54:50	4	MR. ORGAN:	Objection. Compound.
04:54:51	5	THE WITNESS:	Not that I can recall.
04:54:51	6	BY MS. ANTONUCCI:	
04:54:52	7	Q.	Did Wayne ever speak to you about giving a final
04:54:56	8		written notice to you?
04:55:00	9	A.	No.
04:55:09	10	Q.	Did Wayne Jackson ever tell you that it was
04:55:12	11		critical for you to provide good customer service to
04:55:15	12		your customers?
04:55:16	13	A.	Not that I recall. No.
04:55:19	14	Q.	Did Wayne ever tell you --instruct you to follow
04:55:22	15		direction and follow up with Ed or him if you had any
04:55:29	16		issues or concerns?
04:55:31	17	MR. ORGAN:	Objection. Compound.
04:55:33	18	THE WITNESS:	I don't recall.
04:55:33	19	BY MS. ANTONUCCI:	
04:55:57	20	Q.	Who is Troy Dennis?
04:55:57	21	A.	I don't know. Unless I can see him or a picture
04:56:04	22		or something, I wouldn't know.
04:56:39	23		(EXHIBIT 22 was marked for identification.)
04:56:39	24	BY MS. ANTONUCCI:	
04:56:43	25	Q.	Exhibit 22 is an e-mail from Monica DeLeon at

1 I, CANDY NEWLAND, CSR No. 14256, certify that the
2 foregoing proceedings were taken before me at the time
3 and place herein set forth, at which time the witness
4 was duly sworn, and that the transcript is a true record
5 of the testimony so given.

6
7 Witness review, correction, and signature was

8 (X) by Code.

(X) requested.

9 () waived.

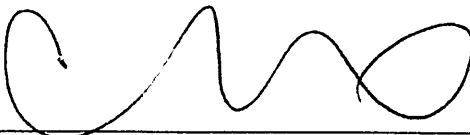
() not requested.

10 () not handled by the deposition officer due to party
11 stipulation.

12
13 The dismantling, unsealing, or unbinding of the
14 original transcript will render the reporter's
15 certificate null and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties nor of any of
19 the parties.

20 Dated this 29TH day of May, 2018.

21
22
23
24 A handwritten signature in black ink, consisting of a series of loops and curves, positioned above a horizontal line.

25 CANDY NEWLAND, CSR 14256

EXHIBIT 8

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and)	
LAMAR PATTERSON,)	
)	
Plaintiffs,)	
)	Case No.
vs.)	3:17-cv-06748-WHO
)	
TESLA, INC. dba TESLA MOTORS,)	Pages 1 - 142
INC.; CITISTAFF SOLUTIONS, INC.;)	
WEST VALLEY STAFFING GROUP;)	
CHARTWELL STAFFING SERVICES, INC.;)	
and DOES 1-50, inclusive,)	
)	
Defendants.)	
_____)	

VIDEO DEPOSITION OF ERIN MARCONI

MONDAY, OCTOBER 21, 2019

11:39 A.M.

REPORTED BY: LAURA J. MELLINI

CSR NO. 8181, RPR, CCRR

NDS JOB NO.: 220525

1 contract basis, but through a third party, like a West 11:51
2 Valley. 11:51

3 Q Okay. So there were -- in the areas that you 11:51
4 had responsibility for in terms of human resources, 11:51
5 there were both Tesla employee -- regular employees, and 11:51
6 also temporary workers who were working through a 11:51
7 contract with a company like West Valley or Citistaff; 11:51
8 is that right? 11:51

9 A I don't recall Citistaff. West Valley for 11:51
10 sure. 11:51

11 Q Okay. NextSource, was that another company 11:51
12 that had contract employees there? 11:51

13 A I came into contact with them towards the end 11:51
14 of my time there. They definitely didn't go through the 11:51
15 avenues that a West Valley or a Volt prior to them went 11:51
16 through. 11:52

17 Q What do you mean by that? 11:52

18 A My impression -- understanding was that they 11:52
19 had 1099s and then sent people out, but I don't know 11:52
20 because I wasn't involved in any of the contract. 11:52

21 Q There was an area of the facility that dealt 11:52
22 with recycling at the plant. Do you remember that? 11:52

23 A Yep. 11:52

24 Q Did you have anything to do with the recycling 11:52
25 area or those employees? 11:52

1 A Yes and no. I worked with Aaron Phillips 11:52

2 who -- I don't recall his title, but he was over what 11:52

3 eventually was termed environmental sustainability and 11:52

4 had that area. I didn't interact directly with anyone 11:52

5 in that area. 11:52

6 Q There was a manager -- a Tesla manager named 11:52

7 Victor Quintero. Did you ever work with him? 11:52

8 A Yes. 11:53

9 Q Okay. And what -- 11:53

10 A Briefly. 11:53

11 Q What was your role -- what was the time period 11:53

12 during which you were working with Victor Quintero? Do 11:53

13 you remember? 11:53

14 A I believe it would have been sometime in 2015 11:53

15 to sometime in early 2016. 11:53

16 Q Okay. 11:53

17 A That said, it was spotty. I was in and out a 11:53

18 lot for personal reasons. 11:53

19 Q Okay. But your best memory is that you worked 11:53

20 with Victor Quintero in 2015 and then early part of 11:53

21 2016; is that correct? 11:53

22 A Yes. 11:53

23 Q Okay. And Victor Quintero was the manager 11:53

24 over what became environmental sustainability; is that 11:53

25 correct? 11:53

1 A If I recall correctly, somebody put boobs on 13:43
2 like -- you know the male/female symbols on bathrooms? 13:43
3 Somebody drew boobs. 13:43
4 Q Okay. 13:43
5 A Yeah. Definitely this is not the same group. 13:43
6 Q Okay. This being the chassis 3 that's 13:43
7 identified in Exhibit 189; right? 13:44
8 A Correct. 13:44
9 Q So chassis 3 is different from the stamping 13:44
10 division where the boobs on the bathroom drawing was; 13:44
11 right? 13:44
12 A Uh-huh. 13:44
13 Q "Yes"? 13:44
14 A Correct. 13:44
15 Q Okay. 13:44
16 A So, similarly, if they had done something 13:44
17 here, I might not know about it if I'm not supporting 13:44
18 that group. 13:44
19 Q I see. 13:44
20 MR. ORGAN: What do you guys want to do about 13:44
21 lunch? Because we probably have to give a lunch break 13:44
22 for our videographer and court reporter, and it's 13:44
23 already 1:44. 13:44
24 MS. KENNEDY: Sure. How much longer do you 13:44
25 have? We can go grab a quick bite. 13:44

1 STATE OF CALIFORNIA)

2) ss.

3 COUNTY OF LOS ANGELES)

4

5 I, LAURA J. MELLINI, Certified Shorthand

6 Reporter, Certificate No. 8181, for the State of

7 California, hereby certify:

8 I am the deposition officer that

9 stenographically recorded the testimony in the foregoing
10 deposition;

11 Prior to being examined the deponent was first
12 duly sworn by me;

13 The foregoing transcript is a true record of
14 the testimony given;

15 Before completion of the deposition, review of
16 the transcript [X] was [] was not requested. If
17 requested, any changes made by the deponent (and
18 provided to the reporter) during the period allowed are
19 appended hereto.

20

21 Dated_____.

22

23

24

LAURA J. MELLINI

25

CSR NO. 8181, RPR, CCRR

EXHIBIT 9

~~Lamar Patterson-Confidential~~

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ
and LAMAR PATTERSON, an
individual,

No. 3:17-cv-06748-WHO

Plaintiffs,

CONFIDENTIAL

vs.

TESLA, INC. DBA TESLA
MOTORS, INC.; CITISTAFF
SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING
SERVICES, INC., and DOES
1-10, inclusive,

Defendants.

CONFIDENTIAL

Deposition of

LAMAR PATTERSON

San Francisco, California

Friday, July 26, 2019

REPORTED BY:
Sarah Jean Seitz
CSR No. 14175, RPR
FILE No: 19-29151



1 Department of Fair Employment and Housing?

2 A. No.

3 Q. Have you ever filed a charge with the Equal
4 Employment Opportunity Commission?

5 A. No.

6 Q. What about the Labor and Workforce Development
7 Agency?

8 A. No.

9 Q. Have you ever filed a formal or informal
10 complaint against any of your employers?

11 A. No.

12 Q. Other than this lawsuit, did you submit a
13 formal or informal complaint with anyone against Tesla?

14 A. No.

15 Q. And while you worked at Tesla, did you submit
16 any formal or informal complaint with anyone about --
17 against Tesla?

18 A. No.

19 Q. Did you ever file for bankruptcy?

20 A. No.

21 Q. Have you ever been convicted of a felony?

22 A. No.

23 MS. AVLONI: I would just like to clarify that
24 our office had filed a DFEH complaint on Mr. Patterson's
25 behalf. He just may not have known what it was.

1 "BKG/DT." What does that refer to?

2 A. I don't know.

3 Q. So at the time you applied to Chartwell, did
4 you know that you were going to be placed at Tesla?

5 A. Yes.

6 Q. Were you looking specifically to be placed at
7 Tesla?

8 A. No.

9 Q. Okay. Do you see at that top where it says
10 "Applicant Information" and then you go down about four
11 lines and it says "Position applied for," and it says
12 "Tesla."

13 What was your understanding of what the
14 position was that you were applying for?

15 A. What was the understanding?

16 Q. Yeah. What did you think you were applying
17 for?

18 A. Just a warehouse position.

19 Q. Okay. You just didn't know that it was at
20 Tesla?

21 A. No, I didn't.

22 Q. Did you write that in where it says "Position
23 applied for"?

24 A. No.

25 Q. Did you care where you were placed?

1 A. No. Not at the time.

2 Q. Okay. Did you submit a separate resume to
3 Chartwell or just this application?

4 A. Did I -- can you repeat that?

5 Q. Sure.

6 Did you submit a separate resume to Chartwell
7 when you applied, or did you just fill out this
8 application?

9 A. I believe I just filled out the application.

10 Q. What happened after you submitted this
11 application?

12 A. I was hired.

13 Q. Did you interview with anybody before you were
14 hired?

15 A. Yes.

16 Q. Okay. Who did you interview with?

17 A. With Chartwell.

18 Q. Okay. Do you remember who it was that
19 interviewed you?

20 A. No.

21 Q. Do you remember when your interview was?

22 A. No. Not exactly.

23 Q. Do you have an estimate of when it was?

24 A. No.

25 MS. AVLONI: Counsel, I'm trying to figure out

1 exactly where to draw the line, but the reality is this
2 is a deposition in the Diaz matter. And I know some of
3 these questions are foundational, but a lot of these
4 questions are also really not relevant to the Diaz
5 matter. So --

6 MS. JENG: Well, I assume that he is going to
7 be testifying about his experience at Tesla. If he is,
8 I'm entitled to ask questions about the context of his
9 anticipated testimony and his employment experience.

10 MS. AVLONI: And that's where I'm trying to
11 draw the line. If we are going to talk about his
12 interviews at Chartwell, I just don't see how that is
13 relevant, so if you can just be cognizant of that. I'm
14 just raising this right now. I haven't instructed him
15 not to respond to any questions.

16 MR. ARANEDA: Is that a proper basis to
17 instruct him not to answer --

18 MS. AVLONI: Relevance. Relevance. So . . .

19 MS. JENG: Right. That's just not a proper
20 basis to instruct him not to answer, which I know you
21 are not doing, but . . .

22 MS. AVLONI: Well, okay. If I have to go to
23 harassing or whatnot, I can do that as well. The
24 reality is -- I will allow you to continue asking
25 questions, but I just also want you to be cognizant

1 of -- this is not Lamar's deposition for his case. This
2 is really a deposition in the Diaz matter, and he is a
3 witness. So . . .

4 MS. JENG: Right. The plaintiffs in this case
5 have -- had discovery responses saying that
6 Mr. Patterson will be testifying, not just about them,
7 but about his own experience at Tesla. So I'm entitled
8 to questions regarding his experience at Tesla,
9 including his employment, how it began, how it ended.

10 And I assume he is going to be testifying about
11 that in this case as well. If he'll stipulate not to,
12 then I'll reconsider, but . . .

13 MS. AVLONI: If you'll stipulate to using this
14 deposition for his case, then we'll agree to that. You
15 can ask him whatever you want to. But the reality is,
16 if he is going to be called in twice for full eight-,
17 nine-hour depositions, that's just harassing.

18 MS. JENG: Well, if he is going to be
19 testifying about the same things in his case as this
20 case, then I'm entitled to the same answers and
21 questions --

22 MS. AVLONI: I understand that, but the
23 reality is --

24 MS. JENG: That is the reality. Is he going to
25 be testifying --

1 BY MS. JENG:

2 Q. Do you know anybody named Judy Timbreza?

3 A. No.

4 Q. Okay. Does that name sound familiar at all?

5 A. No.

6 Q. Have you ever heard that name?

7 A. Possibly.

8 Q. But you don't have any recollection, as you sit
9 here today, of ever hearing that name?

10 A. No.

11 Q. Are you familiar with someone named Ramon
12 Martinez?

13 A. Yes.

14 Q. Okay. And who is Mr. Martinez?

15 A. He worked at Tesla.

16 Q. When did you first meet him, if you met him?

17 A. When did I first meet him?

18 Q. Uh-huh.

19 A. I don't know.

20 Q. Did you work with him?

21 A. No.

22 Q. How did you know who he was?

23 A. Just through other employers.

24 Q. Employers?

25 A. Well, people that worked there. Sorry.

1 Q. Okay. Have you ever met him?

2 A. Just briefly.

3 Q. Okay. Have you ever talked to him?

4 A. Briefly.

5 Q. How many times?

6 A. I don't know how many times.

7 Q. Was it under five?

8 A. Possibly.

9 Q. Do you -- was it over five?

10 A. It could be about under five. I'm not
11 positive.

12 Q. What is your best estimate?

13 A. Maybe two to three.

14 Q. Okay. What did you guys talk about when you
15 met him briefly two to three times?

16 A. Just work-related stuff.

17 Q. Okay. Did you and Mr. Martinez ever talk about
18 non-work-related things?

19 A. No.

20 Q. Do you know what agency he worked with?

21 A. No.

22 Q. Have you ever witnessed Ramon and Owen
23 interacting?

24 A. Yes.

25 Q. Okay. How many times?

1 A. Not that many times.

2 Q. How many would you -- how many would you
3 estimate?

4 A. Maybe once or twice.

5 Q. Okay. Did you and Owen work in the same area
6 as Mr. Martinez?

7 A. No.

8 Q. Okay. How -- do you know what area he was
9 working in?

10 A. No.

11 Q. So you saw Ramon and Owen interacting once or
12 twice. What was their first interaction like that you
13 saw?

14 A. I don't recall.

15 Q. You don't recall anything about it?

16 A. No.

17 Q. Was it short?

18 A. Yes.

19 Q. Okay. Was it work related?

20 A. Yes.

21 Q. Was there anybody else around?

22 A. I don't recall.

23 Q. Okay. And then the second interaction between
24 Ramon and Owen that you saw, do you recall any details
25 about that?

1 A. No.

2 Q. Was it work related?

3 A. Possibly.

4 Q. Do you remember any interactions that they've
5 had that are not work related?

6 A. No.

7 Q. Can you recall any other times that you heard
8 or saw Owen and Ramon interacting with each other?

9 A. No.

10 Q. Have you been told by anybody about the
11 interactions between Owen and Ramon that occurred prior
12 to you starting work at Tesla?

13 MS. AVLONI: Objection to the extent it calls
14 for attorney-client communication.

15 Do not respond with regards to anything you
16 learned from us.

17 THE WITNESS: No. I don't recall.

18 BY MS. JENG:

19 Q. Okay. Have you ever -- has Owen ever told you
20 anything about Ramon?

21 A. Just the situation with the drawing.

22 Q. The drawing?

23 A. Yes.

24 Q. Okay. Has Owen told you anything else about
25 Ramon?

1 A. No.

2 Q. And when did Owen tell you about the drawing?

3 A. What day or --

4 Q. When?

5 A. I can't say what date. I'm not sure.

6 Q. Okay. You don't have to give me a specific
7 date, but do you recall when Owen told you about the
8 drawing?

9 A. No.

10 Q. Was it while you were still at Tesla or after?

11 A. While I was still working there.

12 Q. Okay. Was it around the time of the drawing or
13 after?

14 A. So -- okay. Can you repeat the question?

15 Q. Sure.

16 I'm trying to get a sense of when Owen spoke to
17 you about Ramon and the drawing.

18 A. The day of the -- the day of.

19 Q. The day of the drawing?

20 A. Yes.

21 Q. Okay. And what did he tell you about the
22 drawing?

23 A. How offensive it was, and that's about it.

24 Q. Are you aware of any incident or conflicts
25 between Ramon and Owen that occurred prior to you

1 starting work at Tesla?

2 A. I'm not aware.

3 Q. How did Owen tell you about Ramon and the
4 drawing on the day that it happened?

5 MS. AVLONI: Vague and ambiguous.

6 THE WITNESS: How did he tell me?

7 BY MS. JENG:

8 Q. Yeah. Did he approach you and tell you about
9 it?

10 A. Well, I seen the drawing.

11 Q. Okay. Were you there with him?

12 A. The day of it happening?

13 Q. When --

14 A. Or the day --

15 Q. Were you both present at the same time?

16 MS. AVLONI: Vague and ambiguous.

17 THE WITNESS: I believe he seen it before me.

18 BY MS. JENG:

19 Q. Uh-huh.

20 A. So I'm not going to say that I wasn't there the
21 same day, but maybe I was. I'm not positive.

22 Q. Okay. So Owen saw the drawing before you, and
23 then did he tell you about it?

24 A. Yes.

25 Q. And then did you go look at it yourself?

1 A. Yes.

2 Q. And what did you observe?

3 A. I seen a drawing. A picture of a drawing --

4 Q. A what drawing?

5 A. A picture of a person colored in black with a
6 noose around it.

7 Q. Do you remember what date it was,
8 approximately?

9 A. No. I don't remember the date.

10 Q. Was it towards the beginning of your time at
11 Tesla or towards the end?

12 A. Maybe the beginning.

13 Q. Okay. And where was the drawing?

14 A. Where was it or where was it on?

15 Q. Both.

16 A. The drawing was inside of the elevator when I
17 saw it.

18 Q. Okay. Had it been moved?

19 A. Yes.

20 Q. By whom?

21 A. I'm not sure.

22 Q. Okay. Do you know where it originally was?

23 A. No.

24 Q. Okay. Did someone show you the drawing?

25 A. Yes.

CERTIFICATE OF REPORTER

I, SARAH J. SEITZ, CSR No. 14175, RPR, certify:
That the foregoing proceedings were taken before me at
the time and place herein set forth; at which time the
witness was duly sworn; and that the transcript is a
true record of the testimony so given.

Witness review, correction, and signature was
(X) By code. (X) Requested.
() Waived. () Not requested.
() Not handled by the deposition officer due to party
stipulation.

The dismantling, unsealing, or unbinding of the
original transcript will render the reporter's
certificate null and void.

I further certify that I am not financially
interested in the action, and I am not a relative or
employee of any attorney of the parties, nor of any of
the parties.

Dated this 6th day of August, 2019.



SARAH J. SEITZ, CSR No. 14175, RPR

EXHIBIT 10

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

--oOo--

DEMETRIC DIAZ, OWEN DIAZ AND)	
LAMAR PATTERSON,)	
)	
Plaintiffs,)	CASE NO.
)	3:17-cv-06748-WHO
vs.)	
)	
TESLA, INC., DBA TESLA MOTORS,)	
INC.; CITISTAFF SOLUTIONS, INC.;)	
WEST VALLEY STAFFING GROUP;)	
CHARTWELL STAFFING SERVICES,)	
INC.; AND DOES 1-50, INCLUSIVE,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF TAMOTSU KAWASAKI

DATE: OCTOBER 9, 2019

TIME: 2:05 P.M.

LOCATION: CALIFORNIA CIVIL RIGHTS LAW GROUP
180 GRAND AVENUE, SUITE 1380
OAKLAND, CALIFORNIA

REPORTED BY: ANGIE M. MATERAZZI
Certified Shorthand Reporter
License No. 13116

TAMOTSU KAWASAKI

October 9, 2019

1 position at some point?

2 A. So -- okay. At some point, yes. So I -- if
3 you -- if that's what you're getting at. So I was a
4 lead for that part and then I became a lead for the
5 elevators.

6 Q. Okay.

7 A. And then from the lead for the elevators, I
8 became a lead of the overnight crew, which was all areas
9 in aspects of Environmental Sustainability.

10 Q. Okay. Let's break that down. So after you
11 were the lead in the -- in the cardboard area, then you
12 became the led for the elevators --

13 A. Correct.

14 Q. -- is that right?

15 How many elevator operators were there?

16 A. My shift, I think I rotated through five or
17 six people.

18 Q. Okay.

19 A. I'm not sure about the day shift.

20 Q. Okay. And then -- and then at some point you
21 were promoted from lead over the elevators to lead for
22 the overnight crew; is that right?

23 A. Correct, correct.

24 Q. At any time during the time that you worked at
25 the Tesla factory, did you ever start -- were you ever a

TAMOTSU KAWASAKI

October 9, 2019

1 regular Tesla employee?

2 A. No, never.

3 MS. JENG: Objection, vague and ambiguous as
4 to regular.

5 BY MR. ORGAN:

6 Q. So in terms of your job working at Tesla, you
7 were always performing job duties in the factory but
8 getting paid by Chartwell; is that right?

9 A. Correct.

10 Q. Okay. And were there other employees working
11 in your area who were in a similar situation, where they
12 were doing all their work at Tesla but getting paid by
13 other contract agencies -- or staffing agencies?

14 A. So --

15 MR. ARANEDA: Objection, calls for
16 speculation.

17 THE WITNESS: So, yes. I mean, Tesla, they
18 hired nothing but staffing companies, most of their
19 positions were staffing company positions.

20 BY MR. ORGAN:

21 Q. Okay.

22 A. I couldn't tell you how many real Tesla
23 employees there were, but I know I was there through a
24 staffing company, I know other people that were there
25 through staffing companies.

TAMOTSU KAWASAKI

October 9, 2019

1 at NextSource?

2 A. No. I -- what -- what do you mean by that?

3 You got to rephrase that.

4 Q. Sure. Was anyone at NextSource informed of
5 the incident between Mr. Ramon Martinez and Mr. Owen
6 Diaz?

7 A. Not by me. I don't -- I can't tell by anybody
8 else but not by me. I didn't -- don't have -- don't
9 know anybody at NextSource or e-mail chain.

10 Like I said, my e-mails always went to Victor,
11 Jaime and Ed, when Ed came. Before that, it was Victor
12 and Jaime.

13 Q. You testified that you heard the N-word thrown
14 around, but you did not think anything of this.

15 What did you -- what did you mean by that?

16 A. It -- I mean, I drive around the building,
17 people are -- whatever, they're on break, they're in the
18 cafeteria, they're joking around with each other, you
19 know, they're saying the N-word to each other, maybe in
20 a cool way or whatever to them, whatever it is.

21 I -- just -- it -- it didn't recollect to me
22 that that wasn't right or I should say something or
23 whatever. It -- like I said, that had nothing to do
24 with me. It wasn't hurting me, it wasn't hurting my
25 people in doing their job. They weren't my employees.

1 **It didn't affect me. So I just thought nothing of it.**
2 **It's like walking down the street right now hearing**
3 **somebody saying it. You're not going to think twice,**
4 **you're not going to stop.**

5 Q. Did you -- did you -- did you think nothing of
6 it because you heard it sort of more of a greeting
7 between people? Is that what you're saying?

8 A. It was -- it wasn't like an argument tone, it
9 wasn't in an aggressive tone, so.

10 Q. Did you -- did you believe it was not being
11 used in an offensive manner?

12 A. Yes --

13 MR. ORGAN: Objection, assume facts not in
14 evidence, calls for speculation.

15 BY MR. ARANEDA:

16 Q. Did you ever hear Mr. Diaz use the N-word?

17 A. No.

18 Q. You -- you testified earlier that you spoke
19 with Mr. Organ's office, correct?

20 A. (No audible response.)

21 Q. How long did you -- was that in an person --
22 strike that.

23 The conversation that you had with Mr. Organ's
24 office, was that in an person conversation or over the
25 telephone?

TAMOTSU KAWASAKI

October 9, 2019

1 CERTIFICATE OF DEPOSITION OFFICER

2

3 I, ANGIE M. MATERAZZI, CSR No. 13116, duly
4 authorized to administer oaths Pursuant to Section
5 2093(b) of the California Code of Civil Procedure,
6 hereby certify that the witness in the foregoing
7 deposition was by me duly sworn to testify the truth,
8 the whole truth and nothing but the truth in the
9 within-entitled cause; that said deposition was taken at
10 the time and place therein stated; that the testimony of
11 the said witness was reported by me and thereafter
12 transcribed by me or under my direction into
13 typewriting; that the foregoing is a full, complete and
14 true record of said testimony; and that the witness was
15 given an opportunity to read and correct said deposition
16 and to subscribe the same.

17 I further certify that I am not of counsel nor
18 attorney for either or any of the parties in the
19 deposition and caption named, or in any way interested
20 in the outcome of the cause named in said caption.

21 I hereby certify this copy is a true and
22 exact copy of the original.

23

ANGIE M. MATERAZZI, CSR 13116

24

25 Date: _____

Bridget Mattos & Associates
(415) 747-8710

EXHIBIT 11

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

- - - - -
DEMETRIC DIAZ, OWEN DIAZ, and)
LAMAR PATTERSON,)
Plaintiffs,) CASE NO.
vs.) 3:17-CV-06748-WHO
TESLA, INC. dba TESLA MOTORS,)
INC.; CITISTAFF SOLUTIONS,)
INC.; WEST VALLEY STAFFING)
GROUP; CHARTWELL STAFFING)
SERVICES, INC.; and DOES 1-50,)
inclusive,)
Defendants.)
- - - - -

DEPOSITION OF MICHAEL JOHN WHEELER

WEDNESDAY, JUNE 12, 2019

Reported by:

BY: MELINDA M. SELLERS, CSR# 10686, RMR, CRC, CRR, CCRR

MICHAEL JOHN WHEELER

June 12, 2019

1 that you came to work for Tesla?

2 A. That's a great question. I do believe I
3 was just looking for work. No referral or anything.
4 Just ended up there.

5 Q. Did you start working for Tesla through a
6 contracting agency, or did you start working
7 directly for Tesla?

8 A. Through Chartwell.

9 Q. Okay. And how did you find out about the
10 job at Tesla through Chartwell?

11 A. I would have to say it would have been
12 online.

13 Q. Okay. And when you were promoted from a --
14 what was -- strike that.

15 What was your position title when you first
16 started working at Tesla?

17 A. I don't really -- it wasn't as formal as we
18 would want it to be. So I would say associate
19 because they just called us, you know, recycling.
20 They did not give us a specific name. And I think
21 Chartwell was working under NextSource at the time.
22 There was some management issues in that category as
23 well.

24 Q. Did you ever see a job description for your
25 initial job working in recycling?

MICHAEL JOHN WHEELER

June 12, 2019

1 though everyone was aware of it.

2 I had another employee who took a picture

3 of an associate who was sleeping during his break.

4 That associate came and spoke to me. I went and

5 took -- spoke to the individual who took the

6 picture. He called me the N-word. I reported it.

7 He got a promotion.

8 So that would be my meaning.

9 Q. You were called the N-word?

10 A. Oh, yes.

11 Q. On more than one occasion?

12 A. This was the -- no. This was the one that

13 stands out the most.

14 Q. Who was the person who called you the

15 N-word?

16 A. This was Jesus. I cannot remember his last

17 name.

18 (Viewing cell phone.)

19 Q. You might have it in your phone?

20 A. Possibly.

21 Q. Okay.

22 A. (Viewing cell phone.)

23 I do not.

24 Q. Okay. So was Jesus a Chartwell employee or

25 was he an employee of Tesla?

MICHAEL JOHN WHEELER

June 12, 2019

1 Well, tell me, where did it occur where

2 Jesus said, "F-U, N-word"?

3 A. This would have been on the east side of
4 the building by the back break rooms where they
5 charged the forklifts.

6 Q. After -- what did you say, if anything, to
7 Jesus after he said, "F-U, N-word"?

8 A. I just called -- I want to say I called
9 Ramon.

10 Q. Okay. And when you talked to -- this was
11 Ramon Martinez, right?

12 A. Yes.

13 Q. So after Jesus called you the N-word, you
14 then talked to Ramon Martinez to let him know that
15 Jesus had used the N-word towards you, correct?

16 A. Correct.

17 Q. And what did you tell Ramon, if you can
18 remember?

19 A. It would have been something along the
20 lines of Jesus is -- well, "Jesus said this and he
21 needs to be removed," or something like that.

22 This was long before I was aware that there
23 was the -- I call it the inner circle, but -- so
24 there's a circle of Hispanics that were looking out
25 for, you know, other Hispanics. And I was actually

MICHAEL JOHN WHEELER

June 12, 2019

1 Q. Okay. And then you sat in human feces?
2 A. Slid right into -- I don't know what type.
3 Q. Okay.
4 A. I didn't --
5 Q. Okay. You didn't test it?
6 A. No.
7 Q. Okay. So you sat on feces that had been
8 put on your seat; is that right?
9 A. Correct.
10 Q. Then after this happened you sent an email
11 to Victor Quintero, to security, and to others?
12 A. To everybody.
13 Q. Okay.
14 A. The whole management because I was -- I was
15 enrage -- I was so -- like, I was very upset. I had
16 gone to lunch, came back.
17 And what upset me even more is security
18 said, "We can't see anything. We can't see where
19 your car was parked," which I know for a fact is a
20 lie because at the front of the Tesla building, the
21 main facility, Elon has his speedsters -- his
22 Roadsters there, the main ones, his first cars. My
23 car was parked within 10 to 15 feet of those cars at
24 the charging station that's right there. So --
25 Q. Is it like a golf cart? Is that what it --

MICHAEL JOHN WHEELER

June 12, 2019

1 **A. It's not a golf cart with a top on it, but**
2 **it was a green cart with a grill and then a black**
3 **bed for the back.**

4 Q. That you could carry things around in?

5 A. Yes.

6 Q. Okay. After you sent the email to Victor
7 Quintero, did you ever get any kind of response from
8 him about the feces in your seat?

9 A. Not that I remember. I remember security
10 said there's nothing -- "We can't see anything."

11 And I'm pretty sure I threw a stink about
12 that. I don't know for how long after. Not, like,
13 anything crazy. I didn't go, "Oh. Was it you? Was
14 it you?" No.

15 But I do remember trying to push more to
16 see what was -- like, what was going on.

17 Q. And you took pictures of the feces in your
18 cart?

19 A. I did.

20 Q. Right.

21 A. On the Tesla phone.

22 Q. And you sent copies of the pictures to
23 Victor Quintero?

24 A. Should be in the email.

25 Q. Okay.

MICHAEL JOHN WHEELER

June 12, 2019

1 **A. I feel like -- I hope I attached that in**
2 **the email.**

3 Q. Okay. After this incident with the feces
4 on the seat, did anything -- was there anything else
5 other than that that happened to you, other than
6 that and the N-word incident that you felt was --
7 well, strike that.

8 Do you think that the feces was put on your
9 seat in part because you were African-American?

10 **A. I could assume that, but I can't say for**
11 **sure. So I will not say that. I will say it was an**
12 **act against me, but it could have been anyone.**

13 Q. What was the timing of that? Do you
14 remember when that was?

15 **A. Timing --**

16 Q. The feces on the seat.

17 **A. It would have had to have been 2:00 a.m. to**
18 **3:00, in between there. Would have been when I**
19 **would have taken my lunch.**

20 Q. Okay. In terms of -- this was after you
21 became a supervisor --

22 **A. Yes.**

23 Q. -- right?

24 And you were issued the cart after you
25 became a supervisor; is that right?

MICHAEL JOHN WHEELER

June 12, 2019

1 Q. Got it. So you started with Securitas --
2 if it was almost a year, then it was probably a
3 little bit before December 22, 2017?

4 A. Something like that.

5 Q. Sound about right? Okay.

6 And you're still with Securitas, right?

7 A. I am.

8 Q. Okay. And is the only reason why you
9 switched, I guess, work contracts is because Tesla
10 switched contracts with the --

11 A. Security firm, yes.

12 Q. With the security firm, okay.

13 Was your placement with Securitas at the
14 Tesla factory?

15 A. Yes.

16 Q. Was it around the same location where you
17 worked the first time that you were at Tesla?

18 A. It was down the street at one of their
19 off-sites, which is also a factor as to why I took
20 the job.

21 Q. Mm-hmm.

22 A. If I had gone to the main plant, there
23 would have been too many familiar faces. So working
24 at an off-site was --

25 Q. Okay. Have you ever been a direct employee

MICHAEL JOHN WHEELER

June 12, 2019

1 of Tesla?

2 A. I have not.

3 Q. So when you said that you were terminated,
4 earlier in your deposition, who was it that
5 terminated you?

6 A. Wayne Jackson was the one that I want to
7 say filed the papers with or signed the papers.

8 Q. Okay. So Wayne Jackson was with Next
9 Source, right?

10 A. Yes.

11 Q. Were you employed by Next Source or placed
12 through Next Source?

13 A. To my understanding, Next Source dealt with
14 all of the outside contracting agencies, as far as
15 we went, so Flagship, CitiStaff, Chartwell.

16 Q. All right. So when you testified earlier
17 about the call that you received telling you that
18 you were terminated, who was it that called you?

19 A. That was from a woman. I do not remember
20 her name.

21 Q. Do you remember where she was from? Was
22 she from Chartwell or Tesla or Next Source?

23 A. Probably from Chartwell.

24 Q. Okay.

25 A. And if it was from Chartwell, it would have

MICHAEL JOHN WHEELER

June 12, 2019

1 Q. That you painted --

2 A. -- that I painted for the students.

3 Q. Okay. So you told the students that it was
4 a great place to work, but you really felt it was a
5 prison?

6 A. I told them it's a great place to work for
7 engineers.

8 Q. Okay.

9 A. I tell everybody that.

10 Q. Okay. And I -- I guess I'll circle back on
11 that.

12 Do you remember anybody who had -- anybody
13 specific who had the swastika tattoos that you were
14 testifying about?

15 A. I don't know his name.

16 Q. Okay.

17 A. I remember being -- it was -- I think I
18 spoke to one of my coworkers. I was, like, "Man, we
19 have some skinheads here." Yeah. But I saw him in
20 passing. He walked by, and I was looking at his --
21 he has a full head of tattoos, not just -- not just
22 the swastika, but a full head of tattoos. I was,
23 like, how is that even allowed here.

24 Q. Tattoos?

25 A. No. Just -- well, not tattoos. Everyone

1 has tattoos, right? But just, like, taken aback
2 that that was going unchecked.

3 Q. The tattoos on the head?

4 A. The vulgarity of the tattoos on the head.

5 Q. Did you ever complain about that to
6 anybody?

7 A. At this point, no, because I was well aware
8 of the situation I was in.

9 Q. Did you complain about the tattoos to
10 anybody else ever?

11 A. Not -- just conversation. Just
12 conversation.

13 Q. Okay.

14 A. Not, like, "Oh, I can't believe this is
15 happening," no.

16 Q. Do you remember who you had conversations
17 about the head tattoos with, or any tattoos?

18 A. No.

19 Q. Okay. Was it someone in HR?

20 A. No, not at all.

21 Q. And then you also mentioned, as part of
22 your description of Tesla as a prison, that they
23 wore pants around the ankles.

24 A. Yes.

25 Q. Would that be a problem if someone was

MICHAEL JOHN WHEELER

June 12, 2019

1 STATE OF CALIFORNIA)

2) ss

3 COUNTY OF CALAVERAS)

4 I hereby certify that the witness in the
5 foregoing deposition of MICHAEL JOHN WHEELER was by
6 me duly sworn to testify to the truth, the whole
7 truth, and nothing but the truth in the
8 within-entitled cause; that said deposition was taken
9 at the time and place herein named; that the
10 deposition is a true record of the witness's
11 testimony as reported by me, a duly certified
12 shorthand reporter and a disinterested person, and
13 was thereafter transcribed into typewriting by
14 computer.

15 I further certify that I am not interested
16 in the outcome of the said action, nor connected
17 with, nor related to any of the parties in said
18 action, nor to their respective counsel.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand this 24th day of June, 2019.

21

22

23

24 _____
MELINDA M. SELLERS, CSR NO. 10686

25 STATE OF CALIFORNIA

Page 131

Bridget Mattos & Associates
(415) 747-8710

EXHIBIT 12

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

No. 3:17-cv-06748-WHO

vs.

TESLA, INC. dba TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC.; NEXTSOURCE,
INC.; and DOES 1-50,
inclusive,

Defendants.

_____ /

DEPOSITION OF WAYNE JACKSON

Friday, May 17, 2019

Reported by: Patricia Rosinski, CSR #4555

Job No. 13571

WAYNE JACKSON

May 17, 2019

1 was?

2 A. I don't recall, no. It's been a few years.

3 Q. Yes.

4 Director of Operations, does that sound
5 familiar?

6 A. Yeah, that could be. That could be a better
7 title.

8 Q. You started working for nextSource, you think,
9 in around 2015.

10 Is that right?

11 A. Yeah, somewhere around there. I'm not sure of
12 the exact date.

13 Q. And then you worked as a recruiter for,
14 perhaps, up to a year.

15 Is that right?

16 A. Close to a year, yes.

17 Q. And then you started -- you kind of shifted out
18 of recruiting to do, I think it was a program
19 coordinator role.

20 Is that correct?

21 A. Yes.

22 Q. Or program manager --

23 A. Manager, uh-hum.

24 Q. -- right.

25 But I think you described the program manager

WAYNE JACKSON

May 17, 2019

1 position as more of a liaison.

2 Is that correct?

3 A. Yes, sir.

4 Q. In terms of a liaison, what were the things
5 that nextSource was doing for Tesla in terms of acting
6 as a liaison between Tesla and its contractors?

7 MR. ARANEDA: To the extent that you know.

8 MR. ORGAN: Right.

9 THE WITNESS: Yeah. As far as I know, it was
10 basically Tesla would say, we need so many people for
11 recycling, and we would reach out to the suppliers to
12 see if they were able to provide the individuals that
13 they needed.

14 MR. ORGAN: Q. And do you have any knowledge
15 as to why Tesla was using nextSource as a liaison as
16 opposed to just going directly to --

17 A. No.

18 Q. -- those contractors?

19 A. No, sir, I don't.

20 Q. Now, nextSource also fulfilled some kind of HR
21 functions for some of the contractors.

22 Is that true --

23 A. Not really.

24 Q. -- or not true?

25 A. We would alert the supplier of any issues, more

WAYNE JACKSON

May 17, 2019

1 it could have been a case where I referred it to their
2 agency.

3 Q. Okay.

4 A. For more investigation.

5 Q. Now, in terms of your -- from Terri Garrett,
6 there's an email on Page 21 -- well, actually, before
7 that, there's an email from you to Terri Garrett where
8 you say, "OMG. I just would like one peaceful day
9 around here."

10 What were you referring to that day -- relative
11 to that?

12 A. I, honestly, had a lot on my plate at Tesla. I
13 was helping support three shifts. So I would some days
14 just be running around like a chicken with my head cut
15 off.

16 And you have to realize that facility is huge,
17 so -- it's 5 million square feet, so it'd take me
18 20 minutes just to get from one side to another, having
19 to walk. So it was just -- that's what I, more or less,
20 probably was referring to.

21 Q. Did you guys have, like, a schematic drawing of
22 the factory that showed where the different parts of it
23 were?

24 A. Yes, sir.

25 Q. And was that something provided by Tesla to

WAYNE JACKSON

May 17, 2019

1 right? Any version of the N word?

2 A. I don't like the word, period, but, you know, I
3 understand a little more why they do it. I just wish
4 they wouldn't.

5 Q. Right.

6 And did you ever communicate to anybody at,
7 like, Tesla human resources or anything like that about
8 the fact that you're hearing --

9 A. No, sir.

10 Q. -- A version of the N word?

11 A. No, sir, I did not.

12 Q. Did you talk to the two -- the two
13 Asian-American people who you overheard where you have
14 the specific recollection about them saying, What's up,
15 my N word with an A, did you talk to them about the
16 fact --

17 A. Yes.

18 Q. -- that they had used it?

19 A. Yes, sir.

20 THE REPORTER: Wait a minute.

21 THE WITNESS: Sorry.

22 MR. ORGAN: Q. And what did you tell them in
23 terms of after you heard them say -- use the A version
24 of the N word?

25 A. I just basically let them know, you guys

WAYNE JACKSON

May 17, 2019

1 be having just common conversations.

2 Like I said, I don't -- I honestly don't feel
3 like they were trying to offend anybody. It's just kind
4 of what the culture has evolved into as of late.

5 It's unfortunate, but I don't necessarily feel
6 they were trying to say it in an inoffensive way.

7 Q. Right.

8 They may not have been intending to be
9 offensive, but, certainly, from your perspective --

10 A. Can I --

11 Q. Sure.

12 A. She's calling me.

13 MR. HORTON: Take a quick break?

14 MR. ORGAN: Sure.

15 (Whereupon, a recess was held from
16 1:29 p.m. to 1:32 p.m.)

17 MR. ORGAN: Back on the record.

18 Q. In terms of the areas that you heard the
19 N word, you said in the floor area typically near the
20 satellite cafeterias.

21 Is that correct?

22 A. Yes, sir, where the people would be coming for
23 lunch and they'd be walking in groups talking, things
24 like that.

25 Q. And in terms of -- I think the question I was

WAYNE JACKSON
May 17, 2019

1 going to ask you was, you mentioned that you didn't
2 think that the workers who you overheard were intending
3 it to be offensive, but, certainly, as an
4 African-American male, any time anyone uses even -- the
5 A version of the N word, that's offensive to you, isn't
6 it?

7 A. I wouldn't say that. To be honest, a lot of
8 African-Americans use that word amongst each other.

9 Q. Right.

10 But when an African-American uses that word,
11 the N word, that's different than when people who aren't
12 African-Americans use the word; right?

13 A. Once again, it depends on which version they're
14 using.

15 Q. Right.

16 But even the A version of the N word is
17 offensive to African-Americans if someone who's not
18 African-American is using it; right?

19 A. It depends, once again, on the context of how
20 they're using it.

21 Q. Okay.

22 A. It is offensive, but, like I said, it depends
23 on how they're using it, you know.

24 Q. Well, it's not something that should be used in
25 the workplace --

WAYNE JACKSON
May 17, 2019

1 REPORTER'S CERTIFICATE

2 STATE OF CALIFORNIA)
3) ss.
4 COUNTY OF MARIN)

5 I, PATRICIA ROSINSKI, hereby certify:

6 That I am a Certified Shorthand Reporter in the
7 State of California.

8 That prior to being examined, WAYNE JACKSON,
9 the witness named in the foregoing deposition, was by me
10 duly sworn to testify the truth, the whole truth, and
11 nothing but the truth;

12 That said deposition was taken pursuant to
13 Notice of Deposition and agreement between the parties
14 at the time and place therein set forth and was taken
15 down by me in stenotype and thereafter transcribed by me
16 by computer and that the deposition is a true record of
17 the testimony given by the witness.

18 I further certify that I am neither counsel for
19 either, nor related in any way to any party to said
20 action, nor otherwise interested in the result or
21 outcome thereof.

22 Pursuant to Federal Rules of Civil Procedure,
23 Rule 30(e), review of the transcript was not requested
24 before the completion of the deposition.

25 PATRICIA ROSINSKI, CSR No. 4555

May 28, 2019